

**BILL #** SB 1141

**TITLE:** preexisting transactions; sales tax

**SPONSOR:** Martin

**STATUS:** Senate Engrossed

**REQUESTED BY:** House

**PREPARED BY:** Brian Schmitz

## **FISCAL ANALYSIS**

### **Description**

This bill would exempt preexisting transactions from sales tax rate increases. Businesses would be required to keep documentation in the form of a written contract, purchase order, or other record to establish that a purchase agreement was entered into prior to the tax rate change.

### **Estimated Impact**

If a sales tax rate increase is enacted in the future, the bill would result in foregone General Fund revenues to the extent that firms have preexisting purchase agreements. Since taxpayers could avoid paying the new rate by establishing a recurring purchase agreement before the new rate becomes effective, the bill would create an incentive for businesses to establish these purchase agreements.

The Department of Revenue has no estimate of the bill's impact, but the agency agrees that this tax exemption creates the possibility of firms acting in such a way as to avoid paying the new tax rate.

### **Analysis**

This bill has some similarities to Laws 2003, Chapter 3, which exempted preexisting contracts from increases in the sales tax rate. Both bills shield taxpayers from rate changes that occur after a transaction is already agreed to. However, a significant difference between the bills is that while construction contracts are typically one-time in nature, the transactions that SB 1411 exempts can be recurring over a longer period of time. Because SB 1411 extends the preexisting transactions exemption to all categories of the sales tax, not just the contracting category as with Laws 2003, Chapter 3, it could potentially result in a greater amount of foregone revenue than last year's bill.

### **Local Government Impact**

State sales tax collections are shared with the counties and cities, so to the extent that state tax collections are foregone by this bill, shared revenues would also be foregone.

3/25/04